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REPORT OF COMMITTEE APPOINTED TO STUDY WAYS AND MEANS TO PROVIDE FOR PUBLIC SCHOOL EDUCATION NEEDS

The Committee appointed pursuant to House Resolution H—2744 of June 3, 1950, entitled, "A House Resolution to provide for the appointment of a Committee from the House of Representatives to study and prepare a sales tax providing for the educational needs of the State of South Carolina," respectfully submits the following report to the 89th General Assembly in compliance with the provisions of the resolution.

As a result of an extensive investigation the Committee regards ways and means to provide aid for public education of the youth of South Carolina as the most important statewide problem facing the General Assembly. The Committee therefore made every effort to apprise itself of our present tax structure so that, in submitting recommendations, it might do so with full cognizance of the overall tax problem of the state. No attempt has been made to revise or change basically the overall tax system, however recommendations are offered where certain changes are considered desirable.

The Committee has consulted with experts in the field of public education and state finance, availing itself of the research aid of the State Department of Education, the South Carolina Tax Commission and the Legislative Council. It also received advice and information from many organizations, institutions and agencies, including the Federation of Tax Administrators. To all of these the Committee is grateful for the helpful cooperation so graciously and generously given. It is also indebted to the State Senators who met with them. Their experience and advice was of outstanding help in drafting the final recommendation contained in this report.

THE COMMITTEE FINDS THAT:

First

In order to insure continuity in sound public school education on a basis of progress and uniformity throughout the state, several basic adjustments in the present system must be made, including four principal factors:

1. State aid to local school building projects to insure adequate facilities in which schools may be conducted, with attendant re-

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lief from excessive taxation of real and personal property on the school district level;

2. A fair standard of compensation from the state for public school teachers with a salary beginning at \$1,800.00 per year for the Grade A certified college graduate entering the teaching profession, with a graduated increase commensurate with additional experience and qualifications, to encourage outstanding young men and women to pursue teaching as a life work and prevent neighboring states, where corresponding salaries are even higher than those here proposed, from attracting personnel who are trained in South Carolina;

3. Assumption by the state of the responsibility for transportation of all children who need it to and from schools, so that equal and adequate facilities will be available to all children of school age in every school district, in an effort to accomplish a fairer distribution of state funds appropriated for school transportation and a sharply decreased per pupil cost for this purpose over that now being paid by the several school districts or counties; and

4. In addition to state aid for teachers' salaries, an annual allowance of a sum for each school district for supervision and overhead, such sum to be based on pupils in average daily attendance. This allowance will result in further relief from excessive taxation of real and personal property within the school districts.

Second

In order to finance properly the obligation of South Carolina to its citizens and especially to its children of public school age, adjustments should be made in the present tax system so that all groups, classes and segments of our population will be taxed more evenly and fairly. The Committee believes that:

(a) The emergency taxes of 2¢ per package of cigarettes and 2¢ per bottle of beer imposed as emergency revenue raising measures for 1950-1951 should be discontinued.

(b) The public should have definite relief from the generally high millage assessments against real and personal property in school districts throughout the state; and a constitutional amendment prohibiting the state from levying a tax against real prop-

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erty for support of the state should be enacted to insure reservation of this source of taxation to political subdivisions without danger of infringement by the state. Such an amendment will enable the counties to proceed more freely with generally needed reassessments of real estate.

(c) Income tax adjustments to relieve the individual taxpayer, especially in the \$5,000.00 per year and less income bracket, should be made as follows:

1. Use of a convenient, simple, short form income tax blank with provision for standard deductions should be authorized.

2. Authorizations should be given to raise exemptions from \$1,800.00 to \$2,000.00 for married couples; from \$200.00 to \$400.00 each for dependents; and income tax paid the federal government up to \$500.00 in any year should be allowed as a deduction from the individual's net income before calculations of tax payable by the individual to the state. Proposed bills to effectuate the intent of these suggestions concerning income tax revisions are attached.

Third

A fiscal board of higher education with authority to review and consolidate requests for appropriations for state supported institutions of higher learning would be helpful in eliminating duplication of effort by the several institutions and would encourage a wider scope of overall achievement with attendant increased return for the money so spent.

Fourth

The several counties which have been lax in the assessment and collection of taxes against personal property such as motor vehicles, could profitably increase the revenue from this source and the morale of those citizens who are prompt in paying such taxes by devising means locally to insure a more efficient collection of these taxes from all against whom they are or should be assessed.

Fifth

The present cost to the state for aid to public school teachers' salaries is considerably in excess of the amount contemplated at

the time of the enactment of the recertification act in 1944, due in part to the disproportionate numbers of teachers in grades A and B as compared with C and D. There are now over 35% in Grade A, over 50% in Grade B and less than 15% in Grades C and D, whereas it was contemplated that about 25% would be in Grade A, 50% in Grade B, and 25% in Grades C and D. This should be corrected by periodic readjustment of grade requirements in order to maintain the desired ratios.

Sixth

Enactment of a retail sales and use tax within reasonable limitations and with certain exemptions and restrictions is believed to be the only means available to the state to secure the funds needed to assume fully its responsibilities and to effect those improvements and reforms generally recognized as needed.

Seventh

Methods of raising revenue other than by a sales tax have been considered along with many proposed economies. All would raise or save some money, but all together would not produce anywhere near what is needed without injustice or hardship to some group or class, or some existing function or agency of the state. Similarly it was determined that any further reduction of existing taxes, other than herein recommended, would deplete the income to the state to such an extent that such additional expenditures as are needed greatly for the public schools and in other recognized fields of state responsibility would be curtailed to the point of possible inefficiency.

The Committee has found that there is considerable misunderstanding throughout the state of the scope and application of the so-called "merchant's floor tax". It is not generally recognized that this tax is local only and is not a source of revenue for the state. It is a tax on the inventory found on the shelves of the various establishments as of January the first, and the only function of the state in connection with this tax is through the Tax Commission in securing uniformity in valuation. The Tax Commission determines the valuation, but the tax is levied and collected locally on the basis of the millage levy of the various political subdivisions of the state. If the state should attempt to

suspend the collection of this tax, which could be done only by constitutional amendment, it would impose a hardship upon counties, municipalities and school districts which it would be impossible for the state to alleviate on any reasonable basis.

THE COMMITTEE RECOMMENDS:

First, that legislation be enacted providing for:

- A. A school building program
- B. Increased teachers' pay
- C. A state wide school transportation system
- D. An increased appropriation for school supervision and overhead.
- E. A retail sales and use tax to meet these and other state financial requirements.

Exhibit No. 1, attached hereto, comprises the Committee's recommendations contained in A through E above.

Second, that legislation be enacted providing for:

- A. Discontinuance of the 2¢ per package of cigarettes and per bottle of beer imposed in 1950. (See Exhibits Nos. 2 and 3.)
- B. Providing for a constitutional amendment prohibiting the state from levying a tax on real property for the support of the state. (See Exhibit No. 4.)
- C. Providing for use of a convenient, simple, short form income tax blank with provision for standard ten (10%) per cent deductions. (See Exhibit No. 5.)
- D. Raising exemptions for state income tax purposes from \$1,800.00 to \$2,000.00 for married couples, and raising exemptions from \$200.00 to \$400.00 for each dependent. (See Exhibit No. 6.)
- E. Authorizing a deduction of not more than five hundred (\$500.00) dollars on income tax paid by individuals to the federal government in computing income tax of individuals for state income tax purposes. (See Exhibit No. 7.)

Third, that the income from the proposed sales and use tax in excess of that required for educational purposes and proposed tax relief as herein recommended be used to meet other financial needs of the state as shown by the State Budget and Control Board Report of January 1951.

There is herewith attached, marked "Exhibit No. 8", a statement containing the Committee's best estimate of the amount of revenue that a three (3%) per cent sales and use tax as drafted will yield, and the resulting effect on the state's financial needs.

Respectfully submitted,

ERNEST F. HOLLINGS, Chairman
 WERBER BRYAN
 WALTER T. LAKE
 JAMES R. MANN
 H. NORWOOD OBEAR
 JAMES A. SPRUILL, JR.

EXHIBIT NO. 1

A BILL

To raise revenue for the support of the state government of South Carolina, to provide for the expenditure thereof, and to regulate the fiscal affairs of the state by providing for a more efficient public school system by authorizing a grant to the schools of Fifteen (\$15.00) Dollars per year per pupil to finance a program of construction and repair and purchase of equipment, to be supervised by a State Educational Finance Commission created herein; to provide for the payment of such grants by a retail sales and use tax provided for herein; and to authorize the issuance of general obligation bonds of the state not to exceed at any one time Seventy-Five Million (\$75,000,000.00) Dollars to finance the program provided for herein before revenues from the retail sales and use tax are collected, such bond issue or any portion thereof to be effected only in anticipation of retail sales and use tax revenues; and repealing Act No. 215, Acts and Joint Resolutions, 1947, which provides for salaries for teachers and state aid for such, with incidentals, and providing in its stead a new schedule of state aid for teachers' salaries, with provision for supervision and overhead, and making necessary appropriations from the general funds of the state to defray the cost; and providing a transportation system for school to function under the State Educational Finance Commission, and making necessary appropriations to defray

the cost thereof, and to provide for issuance of transportation equipment notes.

Be it enacted by the General Assembly of the State of South Carolina :

ARTICLE I.

STATE EDUCATIONAL FINANCE COMMISSION— POWERS AND DUTIES

Section 1. There is hereby created and established a State Educational Finance Commission, and for the purposes of this Act the term "Commission" shall mean "State Educational Finance Commission". The Commission shall be composed of five members, four of whom shall be appointed by the Governor by and with the advice and consent of the Senate. One shall be appointed for one year, one shall be appointed for two years, one shall be appointed for three years, one shall be appointed for four years, and their successors for a period of four years. No person in the public school system shall be a member of the Commission. Any vacancy occurring before the expiration of a term shall be filled only for the remaining portion of that particular term. The State Superintendent of Education shall be the fifth member of the Commission *ex officio*, and shall have all the powers and privileges of any other member, except that he shall not be eligible to election as chairman. The members of the Commission shall receive a salary of One Hundred (\$100.00) Dollars per annum, an allowance of seven cents per mile for each mile traveled and actual necessary expenses while in the discharge of their duties.

Sec. 2. The Commission shall disburse such funds as are provided by the General Assembly, and shall provide for progressive improvement of the school system of South Carolina by providing advisory plans for the construction of public school buildings and repairs to those already in existence, the acquisition of sites for public school purposes, the operation of more efficient transportation facilities and the purchase of equipment and facilities necessary in the operation of an efficient school system.

Sec. 3. The Governor shall designate the time and place of the first meeting of the Commission, after which it shall meet on call of the chairman or a majority of the members. At its first

meeting, the Commission shall organize by electing a chairman, and as soon as practicable after organizing the Commission shall adopt rules and regulations to govern its proceedings. Three members shall constitute a quorum for the purpose of doing business.

Sec. 4. As soon as practicable the Commission shall make a complete survey of the entire school system, with estimated needs for such new construction, new equipment, new transportation and other improvements as will give to the children of South Carolina greater educational advantages.

Sec. 5. There is hereby appropriated the sum of One Hundred Thousand (\$100,000.00) Dollars to defray the expenses of administration and operation of the State Educational Finance Commission.

ARTICLE II

STATE PUBLIC SCHOOL BUILDING FUND AND PLAN OF FINANCING

Sec. 1. For the purpose of financing necessary school construction and carrying out the provisions of this Act, the Governor and the State Treasurer are hereby directed to issue bonds of the State of South Carolina and notes under the conditions prescribed in this article. The aggregate amount of the bonds outstanding shall at no time exceed Seventy-five Million (\$75,000,000.00) Dollars, and such bonds shall be paid serially, the final installment of any issue to be paid twenty years after date, or on July 1, 1976, whichever is earlier.

Sec. 2. Before any such bonds are issued the Commission shall transmit to the Governor a written request for the issuance thereof and shall embody in such request a statement showing the following:

(a) The principal amount of the bonds proposed to be issued, the maximum rate of interest to be paid thereon, and the times of payment of principal and interest.

(b) The funds on hand in the State Public School Building Fund, as provided for below, and an estimate of funds to accrue to and disbursements to be made from the State Public School Building Fund with the then current fiscal year and the next succeeding fiscal year.

(c) The total amount of bonds issued or to be issued pursuant to previous requests, and a schedule showing the annual payments required to retire such bonds and to pay interest thereon.

(d) The total amount of the advances or loans made from the State Public School Building Fund to the respective school districts of the state, as authorized herein below, and a schedule showing annual payments of principal and interest to be made by the districts from State School Building Grants as provided herein below.

(e) The amount of revenue derived in the next preceding fiscal year from the retail sales and use tax levied under Article V of this Act; *provided*, that until this information is available an estimate of revenue to be derived from such tax during the then current fiscal year or the next succeeding fiscal year shall be submitted in lieu thereof.

(f) The total amount which accrued to the several school districts during the last preceding fiscal year as State School Building Grants, pursuant to the provisions of Section 13 of this article; *provided*, that until such information is available, an estimate for the then current fiscal year shall be submitted in lieu thereof.

If it shall appear from this statement to the satisfaction of the Governor that the income from the retail sales and use tax will be sufficient to pay as they fall due the principal and interest of the proposed bonds, and bonds already issued or to be issued pursuant to previous requests, it shall be the duty of the Governor and the State Treasurer to issue such bonds in accordance with the requests or to issue notes in anticipation of bonds, as provided in this Act.

Sec. 3. The Governor and the State Treasurer are hereby directed to borrow money and to execute and issue notes of the state in the following circumstances and under the following conditions:

(a) For anticipating the sale of any of the State School Construction Bonds, if the officers deem it advisable to postpone the issuance of such bonds; *provided*, that the issuance of bonds has been requested by the State Educational Finance Commission, as above provided.

(b) For the payment of maturing interest or principal of any bonds then outstanding, if there shall not be sufficient funds

available in the State Treasury with which to pay such interest or principal as they respectively fall due.

(c) For the renewal of any loan evidenced by notes herein authorized.

Sec. 4. Funds derived from the sale of State School Construction Bonds, herein authorized, may be used in the payment of any notes that may have been issued in anticipation of the sale of such bonds or in payment of notes renewed. Funds provided for the payment of the principal and interest of bonds, herein authorized, shall be used in paying the principal or interest of any notes or renewals thereof, the proceeds of which have been used in paying interest or principal of such State School Construction Bonds. Interest payments upon notes issued under this article may be evidenced by interest coupons, in the discretion of the State Treasurer.

Sec. 5. The full faith, credit and taxing power of the state are hereby pledged for the payment of the principal and interest of the State School Construction Bonds and notes authorized by this Act.

Sec. 6. The proceeds of the sale of State School Construction Bonds, and of notes issued in anticipation of the sale of such bonds, shall be deposited in the State Treasury in a special account to be known as the "State Public School Building Fund" and shall be disbursed by the State Treasurer in that manner prescribed by law, subject to the direction of the Commission, only for the purpose of paying expenses incident to the issuance of the bonds or notes, paying principal or interest on outstanding bonds or notes, paying to the respective school districts of the state funds which have accrued to them as State School Building Grants, or making advances or loans to the respective school districts of the state on the basis of State School Building Grants which are to accrue as provided herein below.

Sec. 7. All bonds and notes issued under this Act shall be signed by the Governor and the State Treasurer and the Great Seal of the State shall be affixed to or imposed upon them and attested by the Secretary of State. The coupons attached to the bonds or notes shall be authenticated by a facsimile signature of the State Treasurer who is in office on the date of issuance. The delivery of the bonds or notes so executed shall be valid notwithstanding any changes in officers or seal occurring after such exe-

cution. The bonds and notes shall be issued in such form and with such provisions as to time, place, and medium of payment as may be determined by the Governor and the State Treasurer, subject to the provisions of this Act.

Sec. 8. Bonds issued under this Act shall be issued as negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered in his name on the books of the State Treasurer as to principal only or as to both principal and interest, and such principal or both principal and interest, thus made payable to the registered holder, subject to such conditions as the State Treasurer may prescribe. Bonds so registered as to principal in the name of the holder may thereafter be registered as payable to bearer and made payable accordingly.

Sec. 9. The bonds shall be of denomination of One Thousand (\$1,000.00) Dollars each. They shall bear interest, payable semi-annually, or annually at a rate not exceeding the maximum interest rate specified in the request of the Commission for the issuance. Each separate issue of bonds shall mature in annual series or installments, the first of which annual series or installments shall mature not more than five years after date, and the last not more than twenty years after date, or not later than July 1, 1976, whichever is earlier. *Provided*, that insofar as practicable, the annual series or installments shall be made to conform to the repayments of advances or loans estimated to be made to the State Public School Building Fund by the respective school districts from funds accruing to them as State School Building Grants. The installments or series may be equal or unequal in amount. The bonds may, in the discretion of the Commission be made subject to call and redemption at par and accrued interest on such date as may be specified in the request of the Commission for the issuance of the bonds, or on any interest payment date thereafter prior to maturity. The bonds shall not be redeemable before maturity unless they contain a statement to that effect. Notes under this Act shall mature within one year after date.

Sec. 10. The bonds or notes shall be sold by the Governor and the State Treasurer upon sealed proposals, after publication of notice of such sale one or more times at least fifteen days before such sale, in a newspaper of general circulation in the State of South Carolina, and also in at least one financial paper pub-

lished in New York City which regularly publishes notices of sale of state or municipal bonds. The bonds shall be awarded to the highest bidder at a price not less than par and accrued interest to the date of delivery, but the right shall be reserved to reject all bids and to readvertise the bonds for sale. For the purpose of bringing about a successful sale of the bonds and also of such notes as were issued in anticipation of the sale of the bonds, the State Educational Finance Commission shall have the power to do all things ordinarily and customarily done in connection with the sale of state or municipal bonds. Out of the proceeds of the sale of the bonds, and of notes issued in anticipation of the sale of the bonds, there shall be paid all expenses incident to the sale of bonds or notes, the expenses of procuring the assistance and opinion of attorneys, and other expenses. Compensation for all services and payment of all expenses devolved by this Act upon the State Treasurer's office shall be paid also from such proceeds.

Sec. 11. It shall be lawful for all executors, administrators, guardians, and fiduciaries and all sinking fund commissioners to invest monies in their hands in the bonds and notes.

Sec. 12. From and after July 1, 1951, the entire amount of revenue derived from the retail sales and use tax levied by Article V of this Act, shall be pledged to the payment of principal and interest of the bonds, and of notes issued in anticipation thereof, pursuant to terms of this Act; *provided*, however, that the first source of funds for the payment of the principal and interest shall be the State School Building Grants, as authorized by Section 13 of this article, to be credited from the proceeds of the retail sales and use tax to the respective school districts of the state; *provided*, further, that nothing contained herein shall prevent or preclude the amendment of the retail sales and use tax Act in the interest of the equity, efficiency or the public good; *provided*, the state auditor shall certify that the revenue estimated to be derived from the retail sales and use tax act, as amended, will be not less than twenty-five (25%) per cent in excess of the funds required to pay all principal and interest required to be paid on the bonds provided for in this Act, and notes issued in anticipation of the issuance of the bonds, and that the revenue estimated to be derived from the retail sales and use tax Act, as amended, will not be less than twenty-five (25%) per cent in excess of the amount required to pay all State School

Building Grants, as provided for herein below, such grants being the primary source for the payment of the bonds and notes herein authorized.

Sec. 13. From the revenues to be derived from the retail sales and use tax levied by Article V of this Act there is hereby authorized a continuing grant of Fifteen (\$15.00) Dollars per year for each child in average daily attendance in each school district, such grant to continue from year to year hereafter so long as any bonds or notes issued pursuant to the authority contained in this article shall be outstanding, such grants to be known as State School Building Grants. The grants shall be figured annually as soon as practicable after the end of the school year and shall be based on the average daily attendance in all of the public schools operated by each separate school district of the state as determined by the State Department of Education. The grants shall be credited to the individual school districts of the state with the State Public School Building Fund. When a county is a unit and the county board of education is the final levying authority for the school district payment shall be made to the board. Average daily attendance shall be computed on the basis of the school year.

Sec. 14. State School Building Grants credited to the respective school districts of the state shall be used exclusively for one or more of the following purposes:

(a) To pay for building of additional facilities or the purchase of land or buildings.

(b) To pay for renovation or remodeling of school buildings or the purchase of furniture or fixtures.

(c) To pay principal and interest of school district indebtedness represented by bonds or notes issued before July 1, 1951, for any capital improvements, or for bonds or notes issued on or after July 1, 1951, for capital improvements which have been approved by the Commission as provided herein below.

(d) To make payments of principal and interest on advances or loans received from the State Public School Building Fund as provided herein below.

Sec. 15. Any funds accruing to the credit of any school district with the State Public School Building Fund and not expended, as provided above, shall remain to the credit of the school district

and shall thereafter be available to such district or to the district into which it subsequently consolidates for use as authorized herein. When a new school district is coterminous, in whole or in part, with another school district or part of one district is annexed to another district, the county board of education shall have the authority, subject to review by the Commission, to apportion funds to the credit of the district or districts involved with the State School Building Fund and likewise to apportion indebtedness owed to the State School Building Fund.

Sec. 16. No State School Building Grants accruing to the credit of any school district with the State Public School Building Fund shall be expended for additional facilities or the purchase of land or buildings or for renovation or remodeling or for the purchase of furniture and fixtures except when such expenditure has been approved as herein provided. To expend funds for such purposes the trustees of any school district shall prepare a statement which shall set forth enrollment in the schools of the district showing division as to schools, grades, number of teachers employed, facilities in use, facilities to be provided with funds to be expended, and outstanding bonded indebtedness. This statement shall be submitted to the county board of education and shall be considered by the Commission only after it has received the recommendation of the county board. If the district is a county unit then the plan shall be submitted directly to the Commission. No funds shall be withdrawn from the State Public School Building Fund until the request of the trustees of the operating school district has been approved by the Commission and withdrawal has been authorized by that body. *Provided*, however, that if such request is disapproved by the county board, reasons therefor must be stated in writing with such disapproval and recommendation to the Commission. When the request is so forwarded to the Commission, a copy of the disapproval with the remarks thereon, shall be forwarded to the school district concerned. Such district shall have the right of appeal to the Commission against such disapproval and recommendation, and may have the right to make such appeal either in writing or in person. The decision of the Commission shall be final.

Sec. 17. In order to guide the Commission in passing upon requests for the use of money of the State Public School Build-

ing Fund, the boards of education of the respective counties of the state are hereby directed to prepare immediately plans for the most efficient use of funds for the construction of school facilities and the use of school transportation, such plans to show existing facilities, desirable consolidations and mergers, and construction of new facilities and the operation of such additional transportation as may be necessary and desirable for the efficient operation of the public schools of the county. The Commission is authorized, in its discretion, to deny all applications for the use of funds of the State Public School Building Fund from any county until such time as an acceptable and reasonably satisfactory plan has been submitted by the county board of education.

Sec. 18. The powers, duties and responsibilities of the School House Planning Section of the State Department of Education are hereby transferred to the Commission. The Commission is authorized to employ architects, consultants and other personnel, and to prescribe reasonable rules and regulations in order to insure that funds derived from the State Public School Building Fund will not be used improvidently or unwisely and that the efficiency of the public school system will be increased by the expenditure of the funds. Except where a showing of special emergency or necessity is made by the board of trustees requesting such expenditure, concurred in by the county board of education, the Commission shall not authorize the expenditure of any funds of the State Public School Building Fund for the construction of additional facilities at any school employing less than one teacher for every grade taught; *provided*, that on such showing and on a special finding of necessity or emergency the Commission may authorize the expenditure of such funds.

Sec. 19. In order to hasten necessary school construction the Commission is authorized to make advances from the State Public School Building Fund to any school district of the state for the purpose of financing additional facilities which have been approved by the county board of education and the Commission, as provided above. Such advance or loan to any school district may be in any amount up to seventy-five (75%) per cent of the State School Building Grants which would accrue to the district within the twenty years next ensuing or on or before July 1, 1976, whichever is earlier, if the average daily attendance of such school district should continue for such period of time to

be the same as in the last school year for which figures showing average daily attendance are available.

Sec. 20. Any advance or loan made to a school district on the basis of the State School Building Grants expected to accrue to it with the State Public School Building Fund, shall bear interest at the rate of two and one-half ($2\frac{1}{2}\%$) per cent and both principal and interest shall be payable in annual installments over the twenty year period or the term ending July 1, 1976, whichever is shorter; *provided*, that if the state shall pay an average rate of interest of more than two and one-half ($2\frac{1}{2}\%$) per cent, then the rate of interest charged on any advance or loan to a school district shall be increased accordingly. The funds accruing to respective school districts of the state with the State Public School Building Fund, by reason of the State School Building Grants authorized above, shall be applied first to the payment of the annual installment of principal and interest, and only after such installment has been paid may the respective school districts draw any money remaining of the grant for expenditures, as provided above, for debt service or school improvements.

Further advances or loans for school improvements may be authorized by the Commission on the requests of any school district from the State Public School Building Fund after having obtained one or more such advances or loans. At the time of the making of such further advance or loan, the earlier advances or loans may be merged with such later advance or loan and a new schedule of payments of principal and interest for the combined loans may be provided for repayment during the term of twenty years or the term ending July 1, 1976, whichever is shorter.

Any advances or loans made from the State Public School Building Fund to any school district shall be evidenced by the receipt of an officer of the board of trustees of the school district, which officer is authorized to execute the receipt, and such receipt shall serve as an assignment of all funds thereafter to accrue to the district from State School Building Grants to the extent that such assignment is required to meet all installments of principal and interest thereafter to become due.

Sec. 21. Any construction to be financed from funds received from the State Public School Building Fund pursuant to the approval of the Commission shall be on public contract, such con-

tract to be let by the trustees of the school district and the awarding of the necessary contracts shall be in the sole province of the school district concerned. In the letting of contracts or purchases, the school districts will be guided by the rules and regulations issued by the State Highway Commission governing the advertisement of letting of contracts or purchases as set out in Section 5975, Code of Laws of South Carolina, 1942.

Sec. 22. Where the expenditure of any funds to which any school district may be entitled has been authorized as provided in this Act, such funds shall be deposited immediately to the credit of the treasurer of the county of which the school district is a part. The county treasurer shall place the sum so received in a special fund to be known as "Public School Building Fund for School District No. _____," and shall pay out the money of such fund only on school warrants properly drawn by the authorities of the school district concerned.

ARTICLE III TRANSPORTATION

Sec. 1. On and after July 1, 1951, the control and management of all school bus transportation in the State of South Carolina shall be vested in the Commission hereinbefore created and established. It is hereby declared to be the policy of the state, acting through the Commission, to assume no obligation to transport any child to or from school who lives within one and one-half miles of the school he attends, nor to provide transportation services extending within a one mile radius of the residence of any child, nor to furnish transportation for any child who attains a grade in a school outside the pupil's district, when the same grade is taught in an appropriate school that is located within the school district in which the pupil lives.

The Commission is hereby authorized to adopt such rules and regulations as may be necessary to carry out the intent and purposes of this Act, which rules and regulations shall have the full force and effect of law.

Sec. 2. All routes served by state-owned equipment shall be subject to the approval of the Commission. *Provided*, however, that for the school year 1951-52, the Commission is hereby directed to approve the continuance of any route operated in 1950-

51. Any proposal for the establishment of new routes to be served by state-owned equipment in 1951-52, or for the alteration or extension of any previously established route, shall, however, be subject to review and approval by the Commission.

Each county board of education shall, not later than April 1, 1952, submit to the Commission the proposed plan for the routing of all state-owned buses within the county for the school year 1952-53. The Commission shall have the right to reject any proposed route or to require such alterations as, in its opinion, are deemed in the best interest of the pupils and the school system of the county. No state-owned equipment shall be operated in the school year 1952-53, or thereafter, except upon routes approved by the Commission.

The Commission shall have no jurisdiction over the routing of buses owned and operated by local school agencies either directly or by contract.

Sec. 3. The Commission is hereby authorized to purchase, in the name of the state, any equipment either publicly or privately owned now being used for the transportation of children to and from schools in this state. The State Purchasing Agency is hereby directed to handle all negotiations for the purchase of such equipment. Each vehicle shall be appraised by the State Purchasing Agency, which shall establish the price to be paid by the state for each. The Agency shall have the right to reject any equipment offered for sale to the state and shall, under no circumstances, consider the purchase of any equipment the remaining usefulness of which is appraised at less than one year. So far as is practicable, the State Purchasing Agency is further directed to complete such negotiations prior to the opening of the 1951-52 school session.

In any instance where a local school agency offers equipment for sale to the state and such equipment is rejected, the state shall be obligated to provide equipment if the local school agency requests the continuation of the route in 1951-52.

Sec. 4. For the purpose of financing the acquisition of such equipment the Governor and the State Treasurer are hereby authorized, at the request of the Commission, to issue equipment notes of the State of South Carolina in an amount not to exceed Five Million (\$5,000,000.00) Dollars and to be paid in equal installments not exceeding ten years. Such notes are to be paid

from funds appropriated for school transportation and the proceeds of the retail sales and use tax.

The proceeds of the retail sales and use tax as provided for in this Act are pledged as a primary source for the payment of such notes and other indebtedness as may be issued and such indebtedness as may be incurred in the purchase of new transportation and equipment.

Sec. 5. On and after July 1, 1951, the Commission shall be responsible for all expenses of operation of state-owned buses and for the replacement of obsolete equipment. The state shall assume no obligation whatever for the expenses of operating buses owned by local or county school agencies, except as hereafter provided.

Sec. 6. On July 1, 1951, the Commission shall assume liability for the carrying out of any contracts existing between local school districts or county school authorities with private contractors for the furnishing of transportation services, which contracts extend beyond July 1, 1951, and were in existence prior to January 10, 1951.

Any county board of education shall have the right at any time to contract for any part or all of its transportation services with private individuals or contractors for the furnishing of such services. In any such instance the county board of education shall execute the contracts. The county board shall be responsible for the payment of all contracts entered into and shall receive aid from the state for pupils thus transported only on the basis of the average per pupil operating cost of state-owned equipment for the current year.

Sec. 7. The county board of education of each county shall be responsible for the selection of prospective school bus drivers of state-owned equipment, under such rules of procedure as the Commission shall direct. Preference in the selection of drivers shall be given to high school students, but no person under sixteen years of age shall be eligible for consideration. Before being employed all prospective drivers shall be examined by the State Highway Department to determine their competency. The Highway Department is further directed to provide a rigid school bus driver training course and to issue special "School Bus Driver's Certificates" to successful candidates. No person shall be authorized to drive a school bus in South Carolina in the process

of transporting children, whether the bus be owned by the state, by a local school agency, or by a private contractor, who has not been certified by the State Highway Department.

Sec. 8. All drivers of state-owned equipment shall be paid by the state at the rate of Twenty (\$20.00) Dollars per school month.

Sec. 9. State-owned buses shall be used primarily for the purpose of transporting children to and from school. Any proposal for the use of such equipment for other purposes shall be submitted to the Commission for its rejection or approval.

Sec. 10. The State Highway Department shall be responsible for providing all supplies required for the operation of state-owned buses and for maintaining them in efficient and safe mechanical condition. The department shall be reimbursed periodically by the Commission for expenditures incidental to operating and maintaining buses. The State Educational Finance Commission and the State Highway Commission shall jointly adopt such rules and regulations as may be necessary to carry out the intent and purposes of this Act.

Sec. 11. The powers, duties and responsibilities of the Transportation Section of the State Department of Education are transferred to the Commission.

Sec. 12. There is hereby appropriated the sum of Three Million Nine Hundred Sixty-one Thousand One Hundred Forty-three (\$3,961,143.00) Dollars, if so much be necessary, to carry out the intent and purposes of this article for the fiscal year 1951-52. This appropriation shall be in lieu of any appropriation carried in the General Appropriation Act for 1951-52, and shall be expended under the direction and approval of the Commission. The Commission is hereby authorized to employ such personnel as may be necessary for the administration of this article, and to pay their salaries and other expenses from funds herein appropriated.

ARTICLE IV

STATE AID FOR TEACHERS' SALARIES, SUPERVISION AND OVERHEAD

Sec. 1. Act 215 of the Acts of 1947, entitled "An Act To Repeal Section 5425, Code of Laws of South Carolina, 1942, Providing for a Schedule of Salaries for Teachers to Prescribe a

Schedule of State Aid for the Payment of Teachers' Salaries in the Public Schools of This State, and to provide for the Payment of Monies to the Various Schools in This State for Supervision and Incidentals," is hereby repealed.

Sec. 2. State aid for the payment of teachers' salaries shall be disbursed monthly to the various counties and school districts for payment only to teachers who hold certificates issued by the State Board of Education under rules and regulations formally adopted by the Board for the purpose of certifying public school teachers. This aid shall be paid for a maximum of nine school months a year and shall be disbursed to teachers in accordance with the following monthly salary schedule (figures under columns A, B, C, and D represent dollars):

	Prior Yrs. Exp.	Adv. Class I (Earned Doctor's Degree)				Class I (Master's Degree)				Class II (Bach. Degree Plus 18 Sem. Hrs. Graduate Work)				Class III (Bach. Degree)				Class IV								Class V (Less Than Two Years College)			
		A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	Advanced—(Three Years College)				Regular—(Two Years College)				A	B	C	D
1. Probationary	0	..	..	..	..	210	200	170	112	..	..	..	..	200	190	160	106	180	170	130	82	160	150	120	82	120	110	90	..
	1	..	..	..	..	216	206	176	119	..	..	..	..	206	196	166	112	186	176	136	89	166	156	126	89	120	110	90	..
2. Intermediate and Intermediate Professional	2	..	..	..	..	222	212	182	152	217	207	177	147	212	202	172	142	192	182	142	122	172	162	132	112	145	120	95	75
	3	..	..	..	..	228	218	188	158	223	213	183	153	218	208	178	148	198	188	148	128	178	168	138	118	151	126	101	81
	4	..	..	..	..	234	224	194	164	229	219	189	159	224	214	184	154	204	194	154	134	184	174	144	124	157	132	107	87
	5	..	..	..	..	240	230	200	164	235	225	195	159	230	220	190	154	210	200	160	134	190	180	150	124	163	138	112	87
	6	..	..	..	..	246	236	206	164	241	231	195	159	236	226	190	154	216	206	160	134	196	186	150	124	169	144	113	87
3. Advanced Professional	7	262	..	..	..	252	242	212	..	247	237	201	..	242	232	196	160	216	206	160	134	..	..	..	..	..	..	..	..
	8	268	..	..	..	258	248	218	..	253	243	201	..	248	238	196	160	216	206	160	134	..	..	..	..	..	..	..	..
	9	274	..	..	..	264	254	224	..	259	249	207	..	254	244	202	166	216	206	160	134	..	..	..	..	..	..	..	..
	10	280	..	..	..	270	260	230	..	265	255	207	..	260	250	202	166	216	206	160	134	..	..	..	..	..	..	..	..
	11	286	..	..	..	276	266	236	..	271	261	213	..	266	256	202	166	216	206	160	134	..	..	..	..	..	..	..	..
	12	292	..	..	..	282	272	242	..	277	267	213	..	272	262	202	166	216	206	160	134	..	..	..	..	..	..	..	..
	13	298	..	..	..	288	278	248	..	283	273	213	..	278	268	202	166	216	206	160	134	..	..	..	..	..	..	..	..
4. Permanent Professional	14	304	..	..	..	294	284	..	..	289	279	219	..	284	274	208	..	222	212	166	140	..	..	..	..	..	..	..	..

Sec. 3. In computing the years of experience of teachers under the schedule in Section 2 hereof, each full regular scholastic year taught by the teachers in the public schools of the state shall be counted as one year's experience.

Sec. 4. Each school district shall be allowed for supervision and overhead Five (\$5.00) Dollars a school year for each pupil in average daily attendance. Average daily attendance shall be computed on the basis of the school year as determined by the State Board of Education. For the operation of this Act the average pupil strength shall be based on an estimate which may be adjusted as correct figures become available. These funds shall be disbursed monthly along with the disbursement of funds for teachers' salaries.

Sec. 5. For the fiscal year 1951-1952 there is hereby appropriated from the General Fund of the state Thirty-seven Million Six Hundred Thousand (\$37,600,000.00) Dollars, if so much be necessary, for the purposes of this article, of which it is estimated that Thirty-five Million Five Hundred Thousand (\$35,500,000.00) Dollars will be required for payment of teachers' salaries, and Two Million One Hundred Thousand (\$2,100,000.00) Dollars will be required for allowance for supervision and overhead. This appropriation shall be in lieu of any other appropriation for this purpose in the General Appropriation Act for 1951-1952.

ARTICLE V

RETAIL SALES TAX

Subarticle I

(1) Definitions. The following words, terms and phrases, when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning: (a) The term "person" or the term "company", herein used interchangeably, includes any individual, firm, co-partnership, association, corporation, receiver, trustee or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context. (b) The term "Tax Commission" or "Commission" means the South Carolina Tax Commission.

(c) The term "sale" or "sales" includes:

(1) Any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(2) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(3) Installment sales and credit sales and the exchange of properties as well as the sale for money, every closed transaction constituting a sale.

(d) The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property (and including the proceeds from the sale of any property handled on consignment by the taxpayer), including merchandise of any kind and character without any deduction on account of the cost of the property sold, the cost of the materials used, labor, or service cost, interest paid, or any other expenses whatsoever, and without any deductions on account of losses; *provided* that cash discounts allowed and taken on sales shall not be included, and "gross proceeds of sales" shall not include the sale price of property returned by customers when the full sales price thereof is refunded either in cash or by credit. The term "gross proceeds of sale" shall also include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with the business, and shall also include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing it, except property which has been previously withdrawn from such business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming it. The term "gross proceeds of sales" shall not include the amount of any tax imposed by the United States upon or with respect

to retail sales whether imposed upon the retailer or consumer, *provided*, however, that any manufacturer's or importer's excise tax shall be included in "gross proceeds of sales". The term "gross proceeds of sales" shall not include the addition to the sales price provided for by paragraph (4) of subarticle III.

(e) The word "taxpayer" means any person liable for taxes hereunder. (f) The term "gross receipts" means the value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character, all receipts actual and accrued, by reason of any business engaged in (not including, however, interest, discounts, rentals of real estate or royalties) and without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever and without any deductions on account of losses. The term "gross receipts" shall include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with the business, and shall also include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing it, except property which has been previously withdrawn from such business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming it.

(g) The term "wholesale sale" or "sale at wholesale" means a sale of tangible personal property by wholesalers to licensed retail merchants, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale. The term "wholesale sale" shall include a sale of tangible personal property or products to a manufacturer or compounder which enters into and becomes an ingredient or component part of the tangible personal property

or products which he manufactures or compounds for sale, and the furnished container and label thereof.

(h) The term "sale at retail" or "retail sale" shall mean all sales of tangible personal property except those above defined as wholesale sales. The quantities of goods sold or prices at which sold, are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders, or landowners for resale or use in the form of real estate are retail sales in whatever quantity sold. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators or compounders, which are used or consumed by them in manufacturing, mining, quarrying or compounding and do not become an ingredient or component part of the tangible personal property manufactured or compounded are retail sales. The term "sale at retail" or "retail sale" shall also include the withdrawal, use or consumption of any tangible personal property by any one who purchases it at wholesale, except property which has been previously withdrawn from the business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming it; and such wholesale purchased shall report and pay the taxes thereon.

(i) Retailer, or seller, includes:

(1) Every person engaged in the business of selling tangible personal property, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax.

(2) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

When in the opinion of the Tax Commission, it is necessary for the efficient administration of this act, to regard any salesmen, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or

persons under whom they operate or from whom they obtain the tangible personal property sold by them, regardless of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the Tax Commission may so regard them and may regard such dealers, distributors, supervisors, employers or persons as retailers for purposes of this act.

(j) "Retailer maintaining a place of business in this state" or any like term shall include any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business or any agent operating within this state under the authority of the retailer or its subsidiary, regardless of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is admitted to do business within this state.

(k) The word "business", as used in this article, shall include all activities engaged in, or caused to be engaged in, with the object of gain, profit, benefit or advantage, either direct or indirect, and not excepting subactivities producing marketable commodities used or consumed in the main business activity, each of which subactivities shall be considered business engaged in, taxable in the class in which it falls. (1) The use within this state of tangible personal property by the manufacturer thereof, as building materials, in the performance of a construction contract, shall, for the purposes of this article be considered as a retail sale thereof by such manufacturer, who shall also be construed as the ultimate consumer of such materials or property, and who shall be required to report such transaction and pay the sales tax thereon, based upon the reasonable and fair market price thereof at the time and place where they are used or consumed by him or it. The provisions of this subsection shall not apply to any tangible personal property which is specifically exempted from the tax levied in this article.

(m) The term "storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased at retail.

(n) The term "use" includes the exercise of any right or power over tangible personal property incident to the owner-

ship of that property, or by any transaction where possession is given, except that it shall not include the sale of that property in the regular course of business.

(o) The term "purchase" means acquired for a consideration, whether such acquisition was effected by a transfer of title, or of possession, or of both, or a license to use or consume; whether such transfer shall have been absolute or conditional, and by whatever means it shall have been effected; and whether such consideration be a price or rental in money, or by way of exchange or barter.

(p) The term "sales price" means the total amount for which tangible personal property is sold, including any services (including transportation) that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest charged, losses or any other expenses whatsoever; *provided*, that cash discounts allowed and taken on sales shall not be included and "sales price" shall not include the amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or by credit. The term "sales price" shall not include the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or consumer, *provided*, however, that any manufacturer's or importer's excise tax shall be included in the term "sales price".

(q) The term "tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses.

(r) The term "in this state" or "in the state" means within the exterior limits of the State of South Carolina, and includes all territory within such limits owned by or ceded to the United States of America. (2) It is hereby declared to be the legislative intent not to affect by the provisions of this section the exemptions specifically provided for in subarticles III and IV of this act.

(s) The term "single article" shall mean the smallest practicable unit of the particular personal property involved as customarily used in the retail trade.

Subarticle II

(1) **Retailer's Registration.** Every person or company on or after July 1, 1951, who shall engage in or continue in any business as a retailer as defined by this act, except duly licensed retail liquor dealers, as a condition precedent to engaging or continuing in such business, shall obtain from the Tax Commission a certificate of registration for each branch, establishment or agency and shall pay an annual registration fee of one (\$1.00) dollar in addition to all other license fees or charges for each retailer and each branch, establishment or agency of the retailer situate in this state. As used in this section "retailer" includes branches, establishments, or agencies of the retailer.

Provided, however, that no certificate of registration shall be issued under the provisions of this subarticle to any person who has not complied with the provisions of this act, and no provisions of this act shall be construed as relieving any person from the payment of any license or privilege tax now or hereafter imposed by law.

(2) The registration certificate herein provided for shall be paid to the South Carolina Tax Commission on or before the thirtieth (30th) day of June of each calendar year and shall be valid for the fiscal year beginning July 1st and ending June 30th, next succeeding.

Retailers commencing business on or after July 1, 1951, shall obtain the certificate of registration provided for by this act prior to the date of commencement of such business. The full amount of the registration fee shall apply in such cases regardless of the date on which business is commenced, and the certificate shall be valid from the date of issuance to June 30th, next succeeding.

(3) The application for the certificate of registration shall show the name and address of each retailer for which registration is applied for, and the Tax Commission shall issue a separate certificate to each retailer. The certificate of registration provided for herein shall not be assignable and shall be valid only for the person in whose name it is issued for the transaction of business at the place designated therein. The certificate of registration shall at all times be conspicuously displayed at the place for which issued.

(4) Whenever any person or company fails to comply with any provision of this act relating to the sales tax, or use tax, or any rule or regulation of the Tax Commission relating to the sale tax, or use tax, prescribed and adopted under this act, the Tax Commission upon a hearing, after giving the person or company ten days' notice in writing specifying the time of hearing and requiring him to show cause why his certificate of registration should not be revoked, may revoke or suspend any one or more of the certificates held by the person or company. The notice may be served personally or by mail.

Subarticle III

(1) Sales Tax. In addition to all other licenses, taxes, and charges now imposed there is hereby levied:

(a) Upon every person, or company engaged, or continuing within this state, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debt or stocks) an amount equal to three (3%) percent of the gross proceeds of sales of the business; *provided*, that the tax hereby levied shall not exceed the sum of twenty-five (\$25.00) dollars upon the gross proceeds of the sale of any single article. *Provided*, however, that any person engaging or continuing in business as a retailer, and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business. For the purpose of the proper administration of this act and to prevent evasion of the sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proof that the sale of tangible personal property is not a sale at retail, is upon the person who makes the sale, unless he takes from the purchaser a certificate to the effect that the property is purchased for resale; *provided*, *further*, that on all sales of retailers made under conditional sales contracts or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period of ninety days or more from the date of sale thereof, the retailer

may elect to include in the return only such portion of the sales price as has actually been received by the retailer during the taxable period or to include the entire sales price in the return for the taxable period during which the sale was consummated. Having once elected either method of reporting such sales, the taxpayer must so continue unless and until permission has been received from the Tax Commission to make a change. Nothing herein shall be construed to permit delay in reporting sales under terms of credit for a period less than ninety days or cash sales. The Tax Commission for any cause whatever may require the taxpayer to include in returns the entire sales price of articles sold notwithstanding the above provisions.

(2) Exemptions. There are exempted from the provisions of this act and from the computation of the amount of the tax levied, assessed or payable under this article the following:

(a) The gross proceeds of sales of tangible personal property or the gross receipts of any business which the state is prohibited from taxing under the constitution or laws of the United States of America or under the constitution of this state.

(b) The gross proceeds of the sales of textbooks used in elementary schools, high schools, and institutions of higher learning.

(c) The gross proceeds of sales of all livestock by whomsoever sold.

(d) The gross proceeds of the sale or sales of feeds for use in production and maintenance of poultry or livestock.

(e) The gross proceeds of the sale or sales of insecticides, or fertilizer or soil conditioners or seeds or seedlings or nursery stock for use solely upon the farm, dairy, grove, vineyard or garden in the production for sale of farm, dairy, grove, vineyard or garden products or in the cultivation of feeds for use in the production and maintenance of poultry or livestock.

(f) The gross proceeds of the sale, or sales, of boxes, crates, bags, bagging, ties, barrels, or other containers and the labels thereof used in preparing agricultural products, dairy products, grove or garden products for market, including barrels and other containers and the labels thereof used in preparing turpentine gum, gum spirits of turpentine and gum resin for market, when such boxes, crates, bags, bagging, ties, barrels, and other containers and the labels thereof are to be sold or furnished by the

seller of the products contained therein to the purchaser of such products.

(g) The gross proceeds of the sale or sales of newsprint paper, newspapers and religious publications.

(h) The gross proceeds of the sale or sales of coal or coke or other fuel to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, for the generation of heat or power used in manufacturing tangible personal property for sale, for the generation of electric power or energy for the use in manufacturing tangible personal property for sale or for resale, or for the generation of motive power for transportation.

(i) The gross proceeds of the sale or sales of lunches to school children when such sales are made within school buildings and are not for profit.

(j) The gross proceeds of sales or gross receipts, of or by any person, firm or corporation, from the sale of communications, transportation, or water, of the kinds and natures, the rates and charges for which, when sold by public utilities, are fixed and determined by the Public Service Commission of South Carolina.

(k) The gross proceeds from the sale or sales of fuel, lubricants, and mechanical supplies for use or consumption aboard ships plying on the high seas either in intercoastal trade between ports of the State of South Carolina and ports in other states of the United States or its possessions, or in foreign commerce between ports in the State of South Carolina, and ports in foreign countries; *provided*, however, that nothing herein shall be construed to exempt or exclude from the tax herein levied, the gross proceeds of the sale or sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other water craft.

(l) The gross proceeds of the sale or sales of wrapping paper, wrapping twine, paper bags, and containers for use incident to the delivery of tangible personal property.

(m) The gross proceeds of subscriptions to magazines are hereby exempted from the computation of the amount of sales tax herein levied, but sales on newsstands are not so exempted.

(n) That portion of the gross proceeds of sales of automotive vehicles, required by law to be licensed by the South Carolina

Highway Department, represented by the value of any vehicle transferred to the vendor in partial payment.

(o) The gross proceeds of the sale or sales of alcoholic liquors or other alcoholic beverages when sold by a dealer duly licensed as a liquor store operator by the State of South Carolina.

(p) The gross proceeds of the sale or sales of gasoline.

(3) Taxes Due Monthly; Reports; Exceptions. The taxes levied under the provisions of this article, except as otherwise provided, shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. On or before the twentieth day of each month after this Act shall have taken effect, every person on whom the taxes levied by this article are imposed shall render to the Tax Commission on a form prescribed by the Commission, a true and correct statement showing the gross sales, the gross proceeds of sales, or gross receipts of his business, as the case may be, for the next preceding month, the amount of gross proceeds or gross receipts which are not subject to the tax, or are not to be used as a measurement of the taxes due by such person, and the nature thereof, together with such other information as the Commission may demand and require, and at the time of making such monthly report such person shall compute the taxes due and shall pay to the Tax Commission the amount of taxes shown to be due. *Provided*, however, that when the total tax for which any person liable under this article does not exceed Ten (\$10.00) Dollars, for any month, a quarterly return and remittance in lieu of the monthly returns may be made on or before the twentieth day of the month next succeeding the end of the quarter for which the tax is due when specially authorized by the Tax Commission, and under such rules and regulations as may be prescribed.

(4) Tax Bracketed to be Added to Purchase Price. Every person or company engaged in or continuing within this state in the business for which a license or privilege tax is required by this article may add to the sales price and collect from the purchaser on all sales upon the gross receipts or gross proceeds of which there is levied by this article a sales tax at the rate of three (3%) per cent an amount equal to the following: No amount on sales of ten cents or less; one cent on sales of eleven cents and over, but not in excess of thirty-five cents; two cents

on sales of thirty-six cents and over, but not in excess of sixty-five cents; three cents on sales of sixty-six cents and over, but not in excess of one dollar; one cent additional for each thirty-three cents or major fraction thereof in excess of one dollar, *provided*, that in no case shall the amount to be added to the sales price of any single article exceed the sum of Twenty-five (\$25.00) Dollars. It shall be unlawful for any person, or company described in this subarticle to fail or refuse to add to the sales price and collect from the purchaser the amount required by this subarticle to be so added to the sales price and collected from the purchaser; and it shall likewise be unlawful to refund or offer to refund all or any part of the amount collected, or to absorb or advertise directly or indirectly the absorption or refund of the amount required to be added to the sales price and collected from the purchaser, or any portion of such amount. Any person, or company violating any of the provisions of this subarticle shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Fifty (\$50.00) Dollars nor more than One Hundred (\$100.00) Dollars, or may be imprisoned in the county jail for not more than six months or by both such fine and imprisonment, and each act in violation of the provisions of this article shall constitute a separate offense. The provisions of this subarticle that there may be added to the sales price and collected from the purchaser the amounts provided herein shall in no way relieve the person, or company described in this subarticle of the tax levied by this article; nor shall the inability, impracticability, refusal, or failure to add to the sales price and collect from the purchaser the amounts provided herein relieve such person, or company from the tax levied by this article.

Subarticle IV

(1) Use Tax.—An excise tax is hereby imposed on the storage, use or other consumption in this state of tangible personal property purchased at retail on or after July 1, 1951, for storage, use or other consumption in this state at the rate of three (3%) per cent of the sales price of such property, regardless of whether the retailer is or is not engaged in business in this state, *provided*, that the tax hereby levied shall not exceed the sum of Twenty-five (\$25.00) Dollars upon the gross proceeds of the sale of any single article. Every person storing, using or oth-

erwise consuming in this state tangible personal property purchased at retail shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this state; *provided*, however, that a receipt from a retailer maintaining a place of business in this state or a retailer authorized by the Tax Commission, under such rules and regulations as it may prescribe, to collect the tax imposed hereby and who shall for the purposes of this article be regarded as a retailer maintaining a place of business in this state, given to the purchaser in accordance with the provisions of this Act, shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

(2) Exemptions. The storage, use or other consumption in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this article:

(a) Property, the gross proceeds of sales of which are required to be included in the measure of the tax imposed by the provisions of Subarticle III of this Act and on which the tax has been paid by the seller or retailer thereof.

(b) All tangible personal property specifically exempted from the tax imposed by the provisions of Subarticle III of this Act.

(3) Retail Sellers to Register and Give Information. (a) Every seller engaged in making retail sales of tangible personal property for storage, use or other consumption in this state, who:

(1) maintains a place of business,

(2) qualifies to do business,

(3) solicits and receives purchases or orders by agent or salesman, shall obtain from the Tax Commission a certificate of registration as provided for by Subarticle II of this Act.

(b) Every person or company who distributes catalogs or other advertising matter and by reason thereof receives and accepts orders from residents, within the State of South Carolina, shall, within thirty days after the effective date of this article or prior to the commencement of such distribution, register with the Tax Commission and give the name and address of each agent operating in this state, the location of any and all distribution or sales houses or offices or other places of business in this state, the number of persons in South Carolina to whom catalogs are delivered, by mail or otherwise, the number of persons in

South Carolina from whom orders are received, by mail or otherwise, together with the amount of the purchase price charged and received and such other information as the Tax Commission may require with respect to matters pertinent to the enforcement of this article.

(4) Seller to Collect Tax; Regulations; Penalty. Every such seller making sales of tangible personal property for storage, use or other consumption in this state, not exempted under the provisions of paragraph (2) of Subarticle III of this article, shall, at the time of making such sales or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time such storage, use or other consumption becomes taxable hereunder, collect the tax imposed by this article from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the Tax Commission. The tax required to be collected by the seller from the purchaser shall be displayed separately from the list, advertised in the premises, marked or other price on the sales check or other proof of sales. It shall be unlawful for any such seller to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this article will be assumed or absorbed by the seller or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. The tax herein required to be collected by the seller shall constitute a debt owed by the seller to this state.

(5) Seller to File Returns. The tax imposed by this article shall be due and payable to the Tax Commission quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use or other consumption of tangible personal property became taxable hereunder, the first of such quarterly periods being the period ending the thirtieth day of September, 1951. Every seller engaged in making retail sales of tangible personal property for storage, use or other consumption in this state, who:

- (a) maintains a place of business,
- (b) qualifies to do business,
- (c) solicits and receives purchases or orders by agent or salesman, or

(d) distributes catalogs or other advertising matter and by reason thereof receives and accepts orders from residents, within the State of South Carolina, shall, on or before the twentieth day of the month following the close of the first quarterly period as above defined, and on or before the twentieth day of the month following each subsequent quarterly period of three months, file with the Tax Commission a return for the preceding quarterly period in such form as may be prescribed by the Tax Commission showing the total sales price of the tangible personal property sold by such seller, the storage, use or consumption of which became subject to the tax imposed by this article during the preceding quarterly period and such other information as the Tax Commission may deem necessary for the proper administration of this article. The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the seller during the period covered by the return. The Tax Commission, if it deems it necessary in order to insure payment to the state of the amount of tax herein required to be collected by sellers, may require returns and payment of such amount of tax for other than quarterly periods. Returns shall be signed by the seller or his duly authorized agent. Every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the tax imposed by this article, and who has not paid the tax due with respect thereto to a seller required or authorized hereunder to collect the tax, shall on or before the twentieth day of the month following the close of the first quarterly period as above defined, and on or before the twentieth day of the month following each subsequent period of three months, file with the Tax Commission a return for the preceding quarterly period in such form as may be prescribed by the Tax Commission showing the total sales price of the tangible personal property purchased by such person, the storage, use or other consumption of which became subject to the tax imposed by this article during the preceding quarterly period, and with respect to which the tax was not paid to a seller required or authorized hereunder to collect the tax, and such other information as the Tax Commission may deem necessary for the proper administration of this article. The return shall be accompanied by a remittance of the amount of the tax herein imposed and not paid to a seller required or authorized hereunder to collect the tax during the period covered by the return.

The Tax Commission, if it deems it necessary in order to insure payment to the state of the amount of such tax may require returns and payment for other than quarterly periods. Returns shall be signed by the person liable for the tax or his duly authorized agent. For the purpose of the proper administration of this article and to prevent evasion of the tax and the duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use or other consumption in this state unless the person selling such property shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale and it shall be further presumed that tangible personal property shipped to this state by the purchaser thereof was purchased from a retailer on and after July 1, 1951, for storage, use or other consumption in this state.

Subarticle V

(1) The taxes imposed by this Act are due and shall be paid to the Tax Commission at the same time that the return required by Subarticles III and IV of this Act is filed, *provided*, that whenever the return is filed and the taxes shown due thereon are paid in full, on or before the final due date provided by this Act, the taxpayer shall be allowed a discount equal to three (3%) per cent of the taxes shown due by said return, but in no case shall any discount be allowed if either return or tax is received by the Tax Commission after the date due.

(2) The Tax Commission for good cause may extend the time for making any return or paying any amount required to be paid under this Act. The extension may be granted only if request therefor is filed with the Tax Commission on or before the day the return or the tax is due.

Any person to whom an extension is granted shall pay in addition to the tax, interest at the rate of one-half on one per cent per month or fraction thereof from the date on which the tax was due until the date of payment.

(3) The person required to file the return shall deliver the return together with the remittance of the full amount of the tax due to the office of the Tax Commission, in Columbia.

(4) The members of the Tax Commission and such officers and agents as it may designate shall have the power to administer an oath to any person or to take the acknowledgment of any person with respect to any return or report required by this Act or by the rules and regulations of the Tax Commission.

(5) Records to be Kept. (a) Every person engaging or continuing in this State in any business for which a privilege tax is imposed by this Act, shall keep and preserve suitable records of the gross sales, gross proceeds of sales, and gross receipts, or gross receipts of such sales of such business, and such other books of accounts as may be necessary to determine the amount of tax to which he is liable under the provisions of this Act. Such taxpayer shall keep and preserve for a period of five years all invoices of goods, wares and merchandise purchased for resale or otherwise, and all such books, invoices and other records shall be open for examination at any time by the Tax Commission or its duly authorized agent. Any person selling both at wholesale and at retail shall keep his books so as to show separately the gross proceeds of wholesale sales and the gross proceed of retail sales.

(b) Every seller and every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer, shall keep such records, receipts, invoices and other pertinent papers in such form as the Tax Commission may require. The Tax Commission or its duly authorized agent is hereby authorized to examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the tax imposed by this Act and to investigate the character of the business to any such person in order to verify the accuracy of any return made or, if no returns was made by such person, to ascertain and determine the amount required to be paid hereunder.

(c) Any person required to keep records under the provisions of this section who shall fail so to do as herein required shall be penalized not less than Twenty-five (\$25.00) Dollars or more than Five Hundred (\$500.00) Dollars for each offense. Each month of such failure shall constitute a separate offense. The Tax Commission is hereby authorized, directed and required to assess the amount of penalty imposed in the same manner as is provided in Subarticle V of this Act and to proceed to the col-

lection of the amount of the penalty in the same manner and with like effect as provided for the collection of tax in Sub article V.

(6) The Tax Commission for the purpose of ascertaining the correctness of any return or returns required by this Act, or for the purpose of making an estimate of the taxable sales or purchases of any person, shall have power to examine or cause to be examined by any agent or representative designated by it for that purpose, any books, papers, records, or memoranda bearing upon the matters required to be included in the return. Where any person who is required to make a return under this Act fails so to do at the time required, or delivers any return which, in the opinion of the Tax Commission, is erroneous, or refuses to allow any regularly authorized agent of the Tax Commission to examine his books and records, it shall be lawful for the Tax Commission to summon such person, or any other person having possession, care or custody of books of account, papers, records, or memoranda containing entries relating to or bearing upon the business of such person, or any other person it may deem proper, to appear before the Tax Commission, and to produce such books of account, papers, records, or memoranda at a time and place named in the summons and to give testimony and to answer questions under oath respecting any gross receipts, sales, purchases, storage, use or consumption, whether taxable or not. Such summons shall in all cases be served by an authorized agent of the Tax Commission by an attested copy delivered to such person in hand, or left at his last or usual place of abode, allowing such person one day for each twenty-five miles he may be required to travel computed from the place of service to the place of examination. When the summons requires the production of books and returns, papers, records, or memoranda, it shall be sufficient if such books, papers, records or memoranda are described with reasonable certainty; and whenever any person summoned under the provisions of this subarticle neglects or refuses to obey such summons as required, the Tax Commission may apply to any Circuit Judge of the South Carolina Circuit Court for an attachment against him for contempt. It shall be the duty of such Judge to hear the application and if satisfactory proof is made, to issue an attachment directed to the Sheriff of the county in which the person resides for the arrest of such person, and upon his being brought before him to proceed to a

hearing of the case, and upon such hearing the Judge shall have power to make such order as he shall deem proper, not inconsistent with existing laws for the punishment of contempt, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(7) If the Tax Commission discovers from the examination of the return or otherwise that the tax paid is greater or less than the amount due, it shall give notice to the person of such underpayment, or overpayment, and such person shall thereupon have an opportunity within thirty days to confer with the Tax Commission as to the proposed adjustment. After the expiration of thirty days from such notification, the Tax Commission shall assess the underpayment, together with any interest or penalty, or both, due under the provisions of this Act and it shall be due and payable to the Tax Commission within ten days of the date of the notice of the assessment. After the expiration of thirty days of such notification in the case of an overpayment of the tax, the Tax Commission shall proceed to order a refund of the amount overpaid together with such interest as is provided by this Act. No additional tax amounting to less than fifty cents shall be assessed and no refunds for less than fifty cents shall be made.

(8) (a) If additional tax is found to be due where the return was made in good faith, and the understatement of the tax is not due to any fault of the taxpayer, there shall be no penalty added because of such understatement, but interest shall be added to the amount of the deficiency at the rate of one-half of one per cent for each month or fraction of a month from the date the tax was originally due until the date the deficiency is paid.

(b) If additional tax is found to be due and the understatement is due to negligence on the part of the person but without intent to defraud, there shall be added to the deficiency five (5%) per cent thereof and, in addition, interest shall be added at the rate of one per cent per month or fraction of a month.

(c) If additional tax is found to be due and the understatement is false or fraudulent, with intent to evade the tax, the amount of understatement shall be increased by fifty (50%) per cent thereof and, in addition, interest at the rate of one (1%) per cent per month or fraction of a month on the understated amount shall be added.

(d) The interest provided for in this section shall in all cases be computed from the date the tax was originally due to the date of payment.

(9) (a) If the Tax Commission discovers on examination of the return or otherwise that the tax, penalty or interest paid by any person is in excess of the amount legally due, then the Tax Commission shall have the power and authority to order refund of such illegally collected tax, penalty or interest, together with interest provided for in subparagraph (9) (b) of this subarticle.

(b) Upon the allowance of a credit or refund of any tax, penalty or interest erroneously, improperly or illegally paid, interest shall be allowed and paid on the amount of such credit or refund at the rate of one-half of one per cent per month from the date such tax, penalty, or interest was paid to the date the order for refund or credit was issued.

(10) Notwithstanding the provisions of paragraph (9) of subarticle V the Tax Commission may offset overpayments for a period or periods together with interest on the overpayments, against underpayments for another period or periods against penalties and against the interest on the underpayments.

(11) Except in the case of fraud, intent to evade this Act or authorized rules and regulations promulgated thereunder, or failure to make a return, every notice of an underpayment shall be mailed within five years after the last day of the calendar month following the period for which the amount is proposed for assessment or within five years after the day on which the returned was filed, whichever period expires the later.

(12) If before the expiration of the time prescribed in the preceding paragraph (11) for the mailing of a notice of underpayment, the taxpayer has consented in writing to the mailing of the notice after such time, notice of either underpayment or overpayment may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(13) Any person liable for the certificate of registration provided by subarticle II of this Act who shall fail to comply with the lawful regulation of the Tax Commission or who shall fail to pay the tax or obtain the certificate within the time provided, shall be liable to a penalty of Five Hundred (\$500.00) Dollars,

provided that the Tax Commission may upon making a record of its reasons therefor remit said penalties in whole or in part. In addition to the penalty above provided, any person liable for the certificate of registration provided by subarticle II of this Act, who shall engage in business as a seller or retailer in this State without a retail registration certificate or after such certificate has been suspended, and each officer of any corporation which so engages in business shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed Five Thousand (\$5,000.00) Dollars or be imprisoned not to exceed five years or both, at the discretion of the Court.

(14) If any person fails to file a return, or has filed an incorrect or insufficient return and has been notified by the Tax Commission of his delinquency, and refuses or neglects within twenty days after such notice to file a proper return, or files a fraudulent return, the Tax Commission shall determine the amount of the gross receipts of the person, or as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person for storage, use, or other consumption which in this State is subject to the use tax, according to the best information and belief of the Tax Commission, and the Tax Commission thereupon shall compute and determine the amount required to be paid to the State, adding to the sum thus determined a penalty equal to Fifty (50%) Per Cent thereof and, in addition, interest upon such amount at the rate of One (1%) Per Cent per month or fraction of a month from the time the tax was originally due to the date of the payment of the tax and penalty.

(15) If any person fails to file a return or to pay a tax, if one is due, on or before the time required by or under the provisions of this Act, the tax shall be increased by Twenty-five (25%) Per Cent and, in addition thereto, interest at the rate of one-half of one per cent per month shall be added to the tax, the interest to be calculated from the date the tax was originally due to the date of payment.

(16) The Tax Commission shall have the power upon making a record of its reason therefor to waive or reduce any of the penalties or interest imposed under the provisions of this Act.

(17) If the Tax Commission is of opinion that the collection of any tax or any amount of tax required to be collected and paid

to the State will be jeopardized by delay, it shall thereupon make an assessment of the tax or amount of tax required to be collected and shall mail or issue a notice of such assessment to the person, together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy including interest and penalties. In the case of the tax for a current period, the Tax Commission may declare the taxable period of the person immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the person together with a demand for immediate payment of the tax based on the period declared terminated, and such tax shall be immediately due and payable whether or not the time otherwise allowed by law for filing the return and paying the tax has expired. Assessment or assessments provided for in this subsection shall be immediately due and payable and proceedings for collection shall commence at once, and if such tax, penalty and interest is not paid upon demand of the Tax Commission, the Tax Commission is hereby authorized and directed to forthwith issue a warrant for distraint against the property of the taxpayer or in its discretion, the Tax Commission may require the taxpayer to file such indemnity bond as in the judgment of the Tax Commission may be sufficient to protect the interest of the State.

(18) The Tax Commission, whenever it deems it necessary to insure compliance with this Act, may require any person subject thereto to deposit with it such security as the Tax Commission may determine. The amount of the security shall be fixed by the Tax Commission, and shall not be greater than twice the estimated average liability of persons filing returns determined in such manner as the Tax Commission deems proper. The Tax Commission may sell the security at public auction if it becomes necessary so to do in order to recover any tax or any amount required to be collected, plus interest or penalty due. Notice of the sale may be served, upon the person who deposited the security, personally or by mail; if by mail, service shall be made in the manner prescribed for service of notice of assessment and shall be addressed to the person at his address as it appears in the records of the Tax Commission. Otherwise, notice of the sale may be served personally by any duly authorized agent of the Tax Commission. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

(19) Any person may apply to the Tax Commission for revision of the tax assessed against him at any time within one year from the time of the filing of the return or from the date of the notice of the assessment of any additional tax. The Tax Commission shall grant a hearing thereon and if, upon such hearing, it is determined that the tax is excessive or incorrect, it shall resettle the same accordingly.

(20) The collection of sales tax and use tax as provided in this Act shall not be stayed or prevented by any injunction, writ or order issued by any Court or Judge thereon, and no writ, order, or process of any kind whatsoever, staying or preventing the Tax Commission from taking any step or proceeding in the assessment or collection of any sales or use tax, whether such tax is legally due or not, shall in any case be granted by any Court or the Judge of any Court; but in all cases the person against whom any sales or use tax shall stand charged by the Tax Commission shall be required to pay the same in such funds and monies as the Tax Commission shall be authorized to receive by any Act of the General Assembly, and thereupon shall have his remedy as is hereinafter provided.

(21) In all cases in which any sales or use tax shall be charged by the Tax Commission against any person and the Tax Commission shall claim the payment of the taxes so charged, or shall take any step or proceedings to collect them, the person against whom such steps or proceedings shall be taken, shall, if he conceives the same to be unjust or illegal for any cause, pay the taxes, which shall include the penalties, under protest in writing in such funds and monies as the Tax Commission shall be authorized to receive; and upon such payment being made the Tax Commission shall pay the taxes, and penalties if any, so collected into the State Treasury as now provided by law, giving notice at the time to the State Treasurer that the payment was made under protest; and the person so paying the taxes may at any time within thirty days after making such payment, but not afterwards, bring an action against the Tax Commission for the recovery thereof in the Court of Common Pleas of any county having jurisdiction; and if it be determined in the action that such taxes, and penalties if any, were wrongfully or illegally collected, for any reason going to the merits, then the Court before whom the case was tried shall certify of record that they

were wrongfully collected and ought to be refunded, and thereupon the Tax Commission shall issue its order for the refund of the taxes, and penalties if any, so paid, in conformity with the order of the Court, which money shall be paid in preference to other claims against the State Treasury. There shall be no other remedy in any case of the illegal or wrongful collection of the sales or use taxes imposed by this Act or attempt to collect such taxes, than that provided in this section.

(22) If any tax, interest, or penalty imposed by this Act remains due and unpaid for a period of ten days, the Tax Commission shall issue a warrant under its hand and official seal directed to the Sheriff or tax collector of any county of this State, commanding him to levy upon and sell the real and personal property of the person found within his county for the payment of the amount thereof, with the added penalties, interest, and cost of executing the warrant, and to return such warrant to the Tax Commission and to pay to it the money collected by virtue thereof by a time to be therein specified, not more than sixty days after the receipt of the warrant. Immediately upon receipt of the warrant, the Sheriff or tax collector shall file with the Clerk of Court of his county a copy thereof, and thereupon the Clerk of Court shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns, the amount of the tax or portion thereof and penalties for which the warrant was issued and the date when such copy was filed and shall index the warrant upon the index of judgments, and thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real property or chattels real of the taxpayer against whom it is issued in the same manner as a judgment duly docketed in the office of said Clerk. The Sheriff or tax collector shall proceed upon the warrant in all respects with like effect, and in the same manner prescribed by law with respect to executions issued against property upon judgments of a court of record. The Sheriff or tax collector shall be entitled to a fee equivalent to Five (5%) Per Cent of the total amount of the warrant, or Three (\$3.00) Dollars, whichever is greater, for service in executing the warrant, and the Clerk of Court shall be entitled to the same fees for recording the warrant as is prescribed by law in respect to executions issued against property upon judgments of a court of record, the fees to be added to and

collected with the total amount of the warrant. If a warrant be returned not satisfied in full, the Tax Commission shall have the same remedies to enforce the claim for taxes, penalties, and interest, against the taxpayer as if the people of the State had recovered judgment against the taxpayer for the amount of the tax, penalties, and interest.

(23) The South Carolina Tax Commission shall administer and enforce the tax herein imposed.

(24) The Tax Commission may appoint and remove a person to be known as the Sales and Use Tax Director, who, under its direction, shall have the supervision and control of the assessment and collection of the license, sales, and use taxes provided by this Act. The Tax Commission may also appoint such other officers, agents, deputies, clerks, and employees as it may deem necessary, such persons to have such duties and powers as the Tax Commission may from time to time prescribe.

(25) (a) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the members of the Tax Commission, any deputy, agent, clerk, or other officer or employee to divulge or make known in any manner the amount of the sales or gross receipts or any particulars whatsoever set forth or disclosed in any report or return required under this Act. Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prohibit the identity of particular reports or returns and the items thereof, or the inspection by the Attorney General or other legal representative of the State, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty or interest imposed by this Act. Reports and returns shall be preserved for five years and thereafter, until the Tax Commission orders them to be destroyed.

(b) Any offense against subdivision (a) of this section shall be punished by a fine not exceeding One Thousand (\$1,000.00) Dollars or by imprisonment not exceeding one year, or both, at the discretion of the Court, and if the offender be an officer or employee of this State, he shall be dismissed from office and be incapable of holding any public office in this State for a period of five years thereafter.

(c) Notwithstanding the provisions of this section, the Tax Commission may permit the Commissioner of Internal Revenue

of the United States, or the proper officer of any State imposing a sales or use tax similar to that imposed by this Act, or the authorized representative of either such officer, to inspect the returns of any person, or may furnish to such officer or his authorized representative a copy of the return of any person or supply him with information concerning any item contained in any return or disclosed by the report of any investigation, but such permission shall be granted or such information furnished to such officer or his representative only if the statutes of the United States or of such other state, as the case may be, grants substantially similar privileges to the proper officer of this State charged with the administration of this Act.

(26) The Tax Commission may from time to time make such rules and regulations not inconsistent with this section as it may deem necessary to enforce its provisions and the same shall have the full force and effect of law.

(27) The revenue derived from the tax levied in this article shall be remitted to the State Treasurer to be credited to the State Public School Building Fund for the purposes provided for in this Act and any sum over and above that so required shall be placed to the credit of the General Fund.

(28) The sum of Three Hundred Thousand (\$300,000.00) Dollars is hereby appropriated from the General Fund of the State for administration and enforcement of the provisions of this article for the fiscal year 1951-1952, and shall be available immediately upon approval of this Act. Should the amount so appropriated be insufficient for the administration and enforcement of the provisions of this article for the entire year the Tax Commission may, upon approval of the State Budget and Control Board, expend from the revenue derived from these taxes, in addition to the above appropriation, a sufficient amount to provide for proper administration and enforcement as herein provided.

(29) If any clause, sentence, paragraph, or part of this article shall for any reason be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not impair, affect, or invalidate the remainder of the article, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

No caption of any section or subsection shall in any way affect the interpretation of this article or any part thereof.

(30) The sales and use tax provided by this article, upon approval by the Governor, shall take effect on July 1, 1951, *provided*, that gross proceeds of sales derived from deliveries of tangible personal property made on or after July 1, 1951, shall be included in the measure of the tax whether or not such delivery was made pursuant to contracts executed prior to July 1, 1951; *provided, further*, that the sales price of tangible personal property delivered on or after July 1, 1951, for storage, use or other consumption in this State shall be subject to the use tax whether or not such delivery was made pursuant to contracts executed prior to July 1, 1951.

ARTICLE VI

Section 1. Subdivision (e) of Subsection 13 of Section 2531, Code of Laws of South Carolina, 1942, is hereby repealed, and all other Acts or parts of Acts inconsistent with the provisions of any article of this Act are repealed, and if any provision of this Act should be declared unconstitutional or invalid by any Court of competent jurisdiction, the remainder of the Act shall be in full force and effect.

Sec. 2. This Act shall become effective upon its approval by the Governor.

EXHIBIT NO. 2

A Bill to amend Subdivision (d), Subsection (5), Section 2527, Code of Laws of South Carolina, 1942, as amended by Section 95 of Act No. 1053 of the Acts and Joint Resolutions of the General Assembly, 1950, which provides for a cigarette tax of two and one-half ($2\frac{1}{2}$) mills on each cigarette by lowering the tax to one and one-half ($1\frac{1}{2}$) mills on each cigarette.

Be it enacted by the General Assembly of the State of South Carolina:

Section 1. Subdivision (d), Subsection (5), Section 2527, Code of Laws of South Carolina, 1942, as amended by Section 95 of Act No. 1053 of the Acts and Joint Resolutions of the General Assembly, 1950, is amended by striking out the words and figures "two and one-half ($2\frac{1}{2}$)" and inserting in lieu thereof the words

and figures "one and one-half ($1\frac{1}{2}$)" so that Subdivision (d), Subsection (5), Section 2527, when so amended shall read as follows:

"(d) Upon all cigarettes made of tobacco or any substitute therefor, one and one-half ($1\frac{1}{2}$) mills on each cigarette. *Provided*, that no stamp evidencing the tax herein levied shall be of a denomination of less than (\$.01) cent, and whenever the tax computed at the rate herein prescribed shall be a specified amount plus a fractional part of one (\$.01) cent, the package shall be stamped for the next full cent."

Sec. 2. All Acts or parts of Acts inconsistent herewith are hereby repealed.

Sec. 3. This Act shall take effect upon its approval by the Governor.

EXHIBIT NO. 3

A BILL

To Amend Section 2557-2, Code of Laws of South Carolina, 1942, as amended, relating to License Tax on Beer and Similar Malt Beverages, so as to Reduce this Tax to Thirty Cents on each Gallon and to Four Cents on Each Twelve Ounce Bottle or can thereof.

Be it enacted by the General Assembly of the State of South Carolina:

Section 1. Amend Section 2557-2, Code of Laws of South Carolina, 1942, as amended, by striking out in the first paragraph the words and figures "forty-five (45c) cents" and inserting in lieu thereof the words and figures "thirty (30c) cents". Amend further, by striking out in the first paragraph thereof the words and figures "six (6c) cents for every bottle", and inserting in lieu thereof the words and figures "four (4c) cents for every bottle", so that the first paragraph of Section 2557-2 shall read as follows:

"Section 2557-2. There shall be levied and collected on all beers, ales, porter, and other similar malt beverages, by whatsoever name called, containing not more than five (5%) per cent of alcohol by weight, offered for sale in this State, a license tax of thirty (30c) cents per gallon, or fractional quantity thereof,

and on all wines containing not more than twenty-one (21%) per cent of alcohol by volume, offered for sale in this State, a license tax of ninety (90c) cents per gallon, or fractional quantity thereof. *Provided, However,* That if such beer, ale, porter, and other similar malt beverages be offered for sale in bottles or cans, there shall be levied and collected a tax of four (4c) cents for every bottle or can containing not more than twelve (12) ounces, or fractional quantity thereof, and on all wines containing not more than twenty-one (21%) per cent alcohol by volume, when offered for sale in quantities less than one (1) gallon, there shall be levied and collected a tax of six (6c) cents for each eight (8) ounces or fractional quantity thereof."

Sec. 2. All Acts or parts of Acts inconsistent herewith are hereby repealed.

Sec. 3. This Act shall take effect upon its approval by the Governor.

EXHIBIT NO. 4

A JOINT RESOLUTION

To Amend Section 1 of Article X of the Constitution, Relating to Taxation, so as to Prohibit the General Assembly from Levying any Tax on Real Estate to Raise Revenue for State Purposes Except Where Tax Is Imposed as a License Fee on Foreign Corporations.

Be it enacted by the General Assembly of the State of South Carolina:

Section 1. There is proposed the following amendment to Section 1, Article X of the Constitution of this State, as amended: Add at the end thereof a proviso which shall read as follows:

"Provided, that no tax shall be levied by the General Assembly on real estate to raise revenue for state purposes, except where this tax is imposed as a license fee on foreign corporations, owning real estate and doing business, in this state."

Sec. 2. The amendment shall be submitted to the qualified electors at the next general election for representatives. Ballots shall be provided at the various voting precincts with the following words written or printed thereon:

"Shall Section 1, Article X of the Constitution of this state be further amended so as to prohibit the General Assembly from levying any tax on real estate to raise revenue for state purposes, except where this tax is imposed as a license fee on foreign corporations owning real estate in this state.

In favor of the amendment ☐

Opposed to the amendment ☐

Those voting in favor of the amendment shall deposit a ballot with a check or cross mark in the square after the words 'In favor of the amendment'; those voting against the amendment shall deposit a ballot with a check or cross mark in the square after the words 'Opposed to the amendment'."

EXHIBIT NO. 5

A BILL

To Amend Section 2449, Code of Laws of South Carolina, 1942, as Amended, Relating to Deductions from Income Tax, so as to Allow an Optional Deduction from Adjusted Gross Income.

Be it enacted by the General Assembly of the State of South Carolina:

Section 1. Amend Section 2449, Code of Laws of South Carolina, 1942, as amended, by adding at the end thereof a new subsection, to be known as subsection (12), which shall read as follows:

"(12)(a) For the purpose of this subsection "adjusted gross income" means "gross income" minus:

(1) Expenses attributable to a trade or business carried on by the taxpayer, except where the trade or business is the performance of services as an employee.

(2) Travel expenses incurred by the taxpayer in performing services as an employee, provided that the amount reimbursed is included in gross income.

(3) Expenses attributable to rents and royalties.

(4) Expenses incurred in the sale or exchange of property.

(5) Losses arising from the sale or exchange of property.

(b) In lieu of all other deductions from adjusted gross income, individuals may, for the calendar year 1951 and thereafter, at the option of the taxpayer, deduct an amount not exceeding ten (10%) per cent of their adjusted gross income or the sum of Five Hundred (\$500.00) Dollars, whichever is the lesser; *provided*, that where a husband and wife make a joint return, the amount deductible may be an amount not exceeding ten (10%) per cent of their combined adjusted gross income or the sum of One Thousand (\$1,000.00) Dollars, whichever is the lesser; *provided*, further, that where a husband and wife make separate returns, both must exercise the same option.

(c) The deduction provided for in this subsection shall be allowed only if the taxpayer elects in his original return to use this deduction in lieu of all other deductions and he signifies this on his return. The option exercised by the taxpayer in the original return shall be irrevocable for the period covered by the return."

Sec. 2. All Acts or parts of Acts inconsistent herewith are hereby repealed.

Sec. 3. This Act shall take effect upon its approval by the Governor.

EXHIBIT NO. 6

A Bill to amend Subsections (2), (2a), and (3) of Section 2441, Code of Laws of South Carolina, 1942, so as to increase the exemptions from net income allowed thereby in computing State income taxes.

Be it enacted by the General Assembly of the State of South Carolina:

Section 1. Subsections (2), (2a), and (3) of Section 2441, Code of Laws of South Carolina, 1942, are amended by striking them out and inserting in lieu thereof the following:

"Section 2441(2). In the case of a married individual living with husband or wife, or the head of a household, Two Thousand (\$2,000.00) Dollars.

(2a) If a husband and wife, living together, make separate income tax returns, a personal exemption of Two Thousand (\$2,000.00) Dollars may be taken by either or divided between them, but in no case shall a husband and wife living together re-

ceive but one personal exemption. If a husband and wife are legally separated, each shall be entitled to the exemption allowed a single person.

(3) Four Hundred (\$400.00) Dollars for each individual other than husband or wife dependent upon and receiving his chief support from the taxpayer if such dependent individual is under twenty-one (21) years of age or is incapable of self-support because mentally or physically defective."

Sec. 2. The provisions of this Act shall apply only to calendar and fiscal tax years beginning in 1951 and thereafter.

Sec. 3. All Acts or parts of Acts inconsistent herewith are hereby repealed.

Sec. 4. This Act shall take effect upon its approval by the Governor.

EXHIBIT NO. 7

A Bill to amend Section 2449(4), Code of Laws of South Carolina, 1942, relating to deductions of taxes allowed in computing net income for State income tax purposes, so as to allow a deduction of up to Five Hundred (\$500.00) Dollars for income taxes paid the Federal Government.

Be it enacted by the General Assembly of the State of South Carolina:

Section 1. Section 2449(4), Code of Laws of South Carolina, 1942, is amended by adding at the end thereof the following:

"Provided, that taxes imposed by the United States on income of individuals shall be allowed as a deduction, but in no case in an amount exceeding Five Hundred (\$500.00) Dollars; and *provided*, further, that the deduction of United States taxes on income of individuals hereby authorized as a deduction shall be claimed in the amount actually paid during the income year regardless of the method of accounting employed by the taxpayer."

The section, when so amended, will read as follows:

"Section 2449(4). Taxes for the income year, except taxes on income, inheritance taxes, and taxes assessed for local benefit of a kind tending to increase the value of the property assessed. *Provided*, that taxes imposed by the United States on income of

individuals shall be allowed as a deduction, but in no case in an amount exceeding Five Hundred (\$500.00) Dollars; and *provided* further, that the deduction of United States taxes on income of individuals hereby authorized as a deduction shall be claimed in the amount actually paid during the income year regardless of the method of accounting employed by the taxpayer."

Sec. 2. The provisions of this Act shall apply only to calendar and fiscal tax years beginning in 1951 and thereafter.

Sec. 3. All Acts or parts of Acts inconsistent herewith are hereby repealed.

Sec. 4. This Act shall take effect upon its approval by the Governor.

EXHIBIT NO. 8

Revenue estimated from Sales	
Tax as herewith proposed ..	\$30,000,000.00
Budget Requirements:	
Increase in budget requirements 1951-52 over 1950-51..	\$8,328,428.19
Decrease in budget estimated revenue 1951-52 under 1950-51 requirements	1,475,179.14
Additional revenue necessary 1951-52 (Page 15—State Budget)	9,803,607.33
Less teachers pay increases in budget superseded by pay increases proposed herewith	2,900,000.00
Net additional revenue required for 1951-52	6,903,607.33
Net additional revenue required for 1951-52:	
Decrease in budget estimated revenue 1951-52 under 1950-51 requirements	\$ 1,475,179.14
Increase in budget requirements 1951-52 over 1950-51 Public Schools (\$4,733,816.95 less pay increase of \$2,900,000.00)	1,833,816.95
Educational institutions	745,840.05



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Public Welfare	797,967.46	
Welfare institutions	662,059.50	
Penal institutions	331,319.00	
Departmental	1,057,425.23	6,903,607.33
Net Revenue		\$23,096,392.67
Proposed increases in expenditures:		
School construction\$ 6,300,000.00		
School transportation 1,500,000.00		
Teachers' salaries 6,500,000.00		
Overhead assistance 581,000.00		
Cost of administration of educational program 100,000.00	14,981,000.00	
Proposed tax law changes:		
Reduction in revenue, repeal of 2¢ beer and cigarette taxes 5,500,000.00		
Allowance of federal income tax up to \$500.00 1,000,000.00		
Additional dependent allowance of \$200.00 800,000.00		
Additional allowance married and head of household.. 350,000.00	7,650,000.00	
Cost of administering sales tax	300,000.00	22,831,000.00
BALANCE		\$ 165,392.67